

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2085 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

JUNAGADH COMMERCIAL COOPERATIVE BANK LTD

Versus

DY COLLECTOR -PRANT

Appearance:

MR JAYANT PATEL for Petitioner

MR BY MANKAD ld.AGP for Respondents Nos.1 & 2

MR DM THAKKAR for Respondents Nos.3 & 4

CORAM : MR.JUSTICE M.R.CALLA

Date of Order: 22/07/1999

ORAL JUDGMENT

On the request of the parties, the matter was taken up for final hearing. No return has been filed on behalf of the respondents nos.1 and 2.

Through this Special Civil Application, the petitioner Junagadh Commercial Cooperative Bank Ltd. has

sought direction declaring that the members of the respondent no.3, i.e. Junagadh Jilla Sahakari Bank Ltd. working in the areas of Kutiyana Taluka, Porbandar Taluka and Ranavav Taluka have no right, authority or competence to participate at the ensuing election of the members of the Managing Committee of respondent no.3 Bank and that the eligibility criteria for the purpose of contesting the election shall be only in accordance with the Bye-law No.30(X) and the Election Rules for the said purpose will not have any application on the eligibility criteria for contesting the ensuing election of the members of the Managing Committee of respondent no.3 Bank.

It has been pointed out by Mr.Mankad that the revenue District of Junagadh has been bifurcated and new District Porbandar has been created, but there is no Commercial Co-operative Bank in Porbandar District so far and, therefore, even if the three Talukas to which the reference has been made by the petitioner, i.e. Kutiyana Taluka, Porbandar Taluka and Ranavav Taluka have been bifurcated into Porbandar District, they have to be continued with the respondent no.3 Bank, i.e. Junagadh Jilla Sahakari Bank Ltd., till a Commercial Co-operative Bank is established at Porbandar separately and, therefore, the grievance which has been raised by the petitioner Bank is not at all tenable. In the facts of the present case, I find force in the submission of Mr.Mankad. With reference to the document at Annexure.A, i.e. Bye-laws and while referring to Bye-law no.1, Mr.Thakkar has pointed out that the area of operation of the Bank has to be Junagadh District and its business may be extended to such Talukas of other Districts also as may be approved by the Registrar, Co-operative Societies from time to time. It is admitted before this Court that no such Bank has started functioning at Porbandar District. This grievance is not open to be considered at this stage. As and when such Bank starts functioning at Porbandar District, the occasion will arise for consideration of the same.

Mr. Patel appearing for the petitioner submits that there is a conflict between the Bye-laws and the Rules. He has made reference to Bye-law No.30(X) reproduced in the body of the petition at page 28. The submission is that it is in conflict with Rule 17(6) reproduced at page 34 of the paper book of the petition. In the first instance, I find that there is no conflict between the Bye-laws and the Rules as has been pointed out by Mr.Patel. Even if there is any dispute, this Court is not the forum for resolving such a dispute and it is a matter to be considered by the authorities under

the Co-operative Societies Act and, therefore, if any elections are to be held, the elections have to be held under the provisions as they exist and are operating and while conducting elections go bye can't be given either to the Bye-laws or the Rules. In this view of the matter, the arguments raised by Mr.Patel fail. There is no merit in this Special Civil Application. The same is hereby dismissed. Rule is hereby discharged. No order as to costs.

sreeram.